

MEDICAID ELIGIBILITY AND INCOME VERIFICATION

CHAPTER VIII

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15800. BACKGROUND OF INCOME AND ELIGIBILITY VERIFICATION SYSTEM (IEVS)

The Deficit Reduction Act of 1984 (DRA) requires States to have an income and eligibility verification system. Section 2651 of DRA amended the Social Security Act (the Act), the Food Stamp Act, and the Internal Revenue Code to require and enable federally funded State public assistance and unemployment agencies to make more accurate eligibility determinations and benefit payments. State agencies (SAs) are required to exchange information with each other and to obtain and use unearned income data from the Internal Revenue Service (IRS), other income and wage data from the Social Security Administration (SSA), and State Wage and Unemployment Insurance Benefit files. The agencies must assure that appropriate privacy and procedural safeguards are applied in using the information, and that verification is undertaken to protect applicants and recipients from the consequences of erroneous information.

The Omnibus Budget Reconciliation Act of 1986 clarified that States are not required to use all of the information obtained through IEVS to verify the eligibility of Medicaid recipients, and they can target their system to uses which are likely to be most productive and cost-effective. Use of the information means to review and compare the case file against the information received, verify the information (where appropriate), determine whether the information affects eligibility or the amount of medical assistance payment, and enter in the case file that no action is necessary, or notify the Medicaid recipient of an intended adverse action.

Regulations implementing IEVS provisions were effective May 29, 1986 unless States applied for and received approval for a delay not to exceed September 30, 1986.

To assure the confidentiality of tax return information, the provisions require participating SAs to obtain and use IRS unearned income data as prescribed in IRS Publication No. 1075, Tax Information Security Guidelines for Federal, State, and Local Agencies.

15801. REQUESTS FOR INFORMATION AND DATA EXCHANGES

IEVS regulations require you to request information from other agencies to verify Medicaid eligibility and the correct amount of medical assistance payments for applicants and recipients.

A. Participant Programs.--The following State programs are required to participate in the IEVS program:

- o AFDC under title IV-A of the Act
- o Medicaid under title XIX of the Act
- o Unemployment Compensation (UC) under the Internal Revenue Code (State Wage Information Collection Agencies (SWICAs) may gather data for UC.)

- o Food Stamp Program under the Food Stamp Act
- o Any State program under a plan approved under titles I, X, XIV, or XVI of the Act.

B. Information To Be Requested.--The programs named in A. must request information as follows:

1. State Wage Information.--Maintained by the SWICA during the application period and at least quarterly thereafter.

2. Net Earnings.--From self-employment, wage, and payment of retirement benefits maintained by SSA for the applicants during the application period and for recipients for whom the information has not previously been requested.

3. Benefit Information.--Any other eligibility-related information available from SSA under titles II and XVI of the Act.

4. Unearned Income (e.g., Interest).--Available from IRS during the application period and at least yearly thereafter. IRS only accepts magnetic tape requests from a single coordinating SA (CSA) within the State. Because there is more than one program agency (AFDC, Medicaid, Food Stamp) in the State and Adult Assistance in the territories that is required to obtain IRS information, designate one agency as the CSA. The CSA shall consolidate the requests from the requesting programs within the State, and submit monthly a single tape request to IRS. Advise CSAs to closely follow the procedures in Rev. Pro. 85-21 for requesting and receiving data.

5. Unemployment Compensation Information.--Information maintained by the agency administering State unemployment compensation laws.

- o For Medicaid applicants during the application period and at least 3 subsequent months,

- o For Medicaid recipients at the time employment is reported lost and at least 3 subsequent months, and

- o For Medicaid recipients and applicants receiving UC benefits until reported exhausted.

6. Other Information.--Any additional income, resource, or eligibility information relevant to determining eligibility or correct payment amounts in the State or other States administering any of the programs listed above.

C. Exceptions.--Exceptions to the above requirements may be made when:

- o An individual is institutionalized. Obtain and use information from SWICAs only during the application period and on a yearly basis, and from UC agencies only during the application period.

- o The Secretary approves a State application to request and use income information source(s) alternative to the data sources listed above.

- o The agency administering the AFDC program, or SSA under §1634 of the Act, determines the eligibility of an applicant or recipient.

D. Written Agreements.--Before requesting data from or releasing data to another agency, written agreements between the agencies exchanging data must be in effect. The written agreements at a minimum must specify:

- o Information to be exchanged,
- o Titles of all agency officials with authority to request income and eligibility information,
- o Methods with formats to be used and the timing for requesting providing the information,
- o Safeguards limiting the use and disclosure of information as required by Federal, State law, or regulations,

- o The method, if any, the agency uses to reimburse reasonable costs to furnish the information, and

- o In an agreement with a SWICA or UC agency and the Medicaid agency, the Medicaid agency must obtain information on applicants at least twice monthly.

The Computer Matching and Privacy Protection Act (CMPPA) of 1988 placed additional requirements on agencies involved in computer matches covered by the provisions of the Privacy Act. Written agreements must be entered into between the Federal agency disclosing the match information and the agency requesting the information. The CMPPA placed more emphasis on negotiating matching agreements that protect the due process rights of an individual's personal records when they are involved in computer matching programs. These agreements must contain specific elements which are described in the CMPPA and as further defined in the Office of Management and Budget implementing guidelines published in the Federal Register, Volume 54, No. 116, June 19, 1989. These agreements must also be reviewed by each Federal Agency's Data Integrity Board (DIB), as required by CMPPA, approved by the DIB, and a notice regarding implementation of the match sent to the Congress 30 days prior to the match taking place.

You must conform to the requirements of the CMPPA when negotiating matching agreements with Federal agencies supplying IEVS information when the match is covered by CMPPA. When negotiating agreements with those agencies for IEVS matches, all matching agreement elements mandated by the CMPPA must be included in the agreement. You must adhere to the formats prescribed by the Commissioners of SSA and IRS.

15802. USE AND VERIFICATION OF SOCIAL SECURITY NUMBER (SSN)

As a condition of eligibility, you must require each individual requesting Medicaid services to furnish his or her SSN. Advise the applicant of the authority under which the SSN is requested and that his/her SSN is used to verify income, eligibility, and amount of medical assistance payments under the IEVS program.

If the SSNs are missing from the case record, you must require the individual to furnish them. If an applicant or recipient cannot recall his or her SSN(s), or has not been issued an SSN, you must assist in completing an application for

an SSN, and either send the application to SSA, or request SSA to furnish the number if there is evidence that the individual was previously issued an SSN.

However, pending issuance or verification of the individual's SSN(s) by SSA, do not deny or delay services to an otherwise eligible applicant. Also, verify the SSN(s) of each applicant and recipient with SSA to ensure that each SSN furnished was issued to that individual and to determine whether other SSNs were issued.

15803. USE AND VERIFICATION OF INFORMATION

The use and verification of the information received through IEVS to determine the eligibility of applicants and recipients and the amount of benefit payments is mandated. Follow up on all information items unless you have implemented an approved targeting plan permitting the flexibility to use only those information items which your State determines are most likely to be productive in identifying and preventing ineligibility and incorrect payments.

A. Followup Process.--When processing information items:

- o Review the information and compare it with the case record.
- o Contact the applicant or recipient and/or collateral contacts, such as banks, to verify independently new or previously unverified information. Conduct the independent verification in accordance with requirements of Public Law 100-503 as discussed in §15803.C, subsections 1 and 2.
- o Resolve any significant discrepancies.
- o Determine if the information affects eligibility or the amount of medical assistance payments.
- o Notify the applicant or recipient of any intended adverse action, or enter in the case file that no further action is necessary.

Use the same followup process when a targeting plan has been implemented.

B. Timeframes for Action.--Regulations provide for a 45-day period for the followup actions in subsection A from the date the information items are received from the supplying agency. This is a maximum time period and does not preclude setting shorter timeframes for acting on information items from a particular data source. The 45-day period begins when the State central unit receives the IEVS information, not when an eligibility case worker receives an item for processing.

Additionally, provision is made for delayed action on not more than 20 percent of the cases being followed up when collateral verification is not received within the 45-day period. However, such delays may not be indefinite. Follow up earlier requests timely and delay no cases beyond the next case action, or scheduled redetermination.

Use appropriate procedures to monitor the timeliness of verification.

C. Independent Verification and Advance Notice of Adverse Action.--CMPPA of 1988 (Public Law 100-503) requires that IEVS information received from a covered matching program be verified independently and that the applicant/recipient be provided a 30-day advance notice of adverse action in all circumstances in which information received from a computer match, either

directly or indirectly, results in an adverse action. CMPPA of 1990 (Public Law 101-508) subsequently amended Public Law 100-503 to create an alternative to the case-by-case independent verification of all match information, and modified the due process requirements, as required by Public Law 100-503. In effect, the alternative verification procedures permit a Data Integrity Board (DIB) to waive the independent verification requirement imposed by Public Law 100-503 for qualifying matching programs. This alternative procedure is available only for information that consists of identification and amount of benefits paid by the source agency under a Federal benefit program and only if there is a high degree of confidence that the information provided by the matching program is accurate. CMPPA of 1990 also modified the due process requirements of the 30-day notice period of Public Law 100-503. The amendment recognizes the use of a different time period as stipulated in an otherwise applicable statute or regulations when a notice is sent to an individual prior to taking any adverse action based on information disclosed under a computer matching program. Where a benefit program does not have a time period for notice established in law or regulation, then the existing 30-day notice requirement of Public Law 100-503 is retained.

The IEVS matching programs covered by these laws are:

- o State conducted matches with SSA using State Data Exchange (SDX) and Beneficiary and Earnings Data Exchange (BENDEX, BEER) records; and
- o State conducted matches with the Internal Revenue Service (IRS) using IRS 1099 files.

NOTE: The Deficit Reduction Act of 1984 requires independent verification and advance notice before taking adverse action due to information obtained through inquiries with IRS data files (unearned income (1099) and BEER data).

The law does not apply to matches with State entities for wage and unemployment insurance benefit data although you are still required to use appropriate verification methods, as determined by your experience, before taking adverse actions.

1. Independent Verification

a. Unless specifically waived as discussed in the alternative independent verification procedures, before denying, reducing, suspending, or terminating benefits as a result of IEVS information received through a covered data match, independently investigate and confirm any information used as a basis for proposing adverse actions. Include, where applicable:

- o The amount of income and the resources that generated the income involved.
- o Whether the applicant or recipient had access to the resource and/or income for his or her own personal use.
- o The period(s) when the individual actually had the resource or income or both.

Independent verification is an inquiry about a possible discrepancy between information reported from various sources and that reported by the applicant or recipient. Data from IEVS are the starting point for the inquiry. Independent verification is the means of gathering information which enables

you to determine actual circumstances and decide whether or not to send a notice of adverse action. Because IEVS data often pertain to past periods, the process of independent verification includes an inquiry about the relevance of the data to current circumstances. Independent verification can be accomplished either through the applicant or recipient or through a third party source such as the employer or bank which reported the information.

Tailor the type of independent verification performed to the reliability of the data base producing the computer match data. However, to determine the extent of additional verification required, evaluate the completeness and accuracy of the information provided to protect the individual's rights to a fully adequate notice of a negative case action. In most cases, the individual applicant or recipient is the best source for determining the validity of a finding, and he or she is contacted.

Since a number of the Federal agencies supplying IEVS data are the primary providers of benefits to many applicants/recipients, you may formulate distinct verification processes depending on the sources of match data. When the Federal agency providing the match data is the primary or originating source of the match information the alternative independent verification procedures may be used if approved by the Federal agency's DIB.

When computer match information is supplied by a Federal agency that is not the primary or originating source of the income, asset, or other eligibility related information (e.g., unearned income data from IRS or wage data from the SSA), verify such information through contact with either the individual or the actual third party source. While you have the option to choose which verification method is more suitable for each case, in some cases a third party source may be more appropriate in instances where an individual fails or refuses to cooperate, or where contacting the subject initially may permit him or her to conceal data relevant to a decision.

b. Alternative Independent Verification Procedure--When computer match information is provided by a primary or originating Federal source and the amount of the income or resource or other circumstances reasonably can be assumed to be correct, you may use alternative verification procedures if approved by the Federal agency's DIB. The alternative procedure permits a DIB to waive the independent verification otherwise required by Public Law 100-503. Public Law 100-503 requires that each Federal agency disclosing information through computer matches for use in benefit programs establish such a DIB to review and approve each matching program in which the agency participates.

The alternative procedure is only available with respect to information that consists of identification and amount of benefits paid by the source agency under a Federal benefit program, and only if there is a high degree of confidence that the information provided by the matching program is accurate. The amount of benefits information means any statement about the sum of money or other benefits paid by the source agency under a Federal benefit program. Limit use of the alternative procedures to information about benefits paid by the source agency.

When the alternative procedure is applied, after approval by the Federal agency's DIB, provide the applicant or recipient with advance notice of intended action and allow the applicant or recipient to independently verify data produced by these matches or an opportunity to contest the findings. Contact the source agency only when all other avenues of verification have been exhausted.

2. Advance Notice of Adverse Action--Public Law 100-503 provides that adverse actions based on information received through a covered computer matching program may be taken only after:

- o The affected individual has received notice of the intended action containing a statement of the agency's findings, informing the individual of appeal rights, the opportunity for a hearing, and
- o Expiration of 30 days from the date of the notice.

CMPPA of 1990 modify the due process time period required by Public Law 100-503. Where an otherwise applicable statute or regulation requires a notice to be sent to an individual before taking any adverse action based on the information disclosed under a computer matching program, and requires the agency to withhold the action until a specified period of time after notice is given, that time period is adequate for purposes of Public Law 100-503. Therefore, continue to implement the advance notice requirements of 42 CFR 431.211. Whenever you propose to terminate, reduce, or suspend Medicaid covered services for any reason, including for reasons of data disclosed through a computer match, except as allowed by 42 CFR 431.213, mail advance notice of the pending action to the applicant/recipient at least 10 days prior to the time of the anticipated action. For eligibility factors known in advance, such as attainment of age 18 or increased hours of employment (see 42 CFR 435.112), send the notice even earlier, allowing more time to resolve any issue or question. Notwithstanding the notification action, take appropriate action if you determine that the public health or public safety is adversely affected or significantly threatened.

The independent verification and advance notice periods may run concurrently. For example, when the computer generated information is from a Federal agency that is a primary or originating source of such information and the amount of the income, resource, or other circumstances can be assumed to be accurate and current, verify the information with the individual by utilizing a 10-day timely and adequate notice. So that applicants and recipients are aware that he or she is being asked to verify match information when the verification and notice steps are being compressed in this manner, clearly state on the notice of intended adverse action that they are being asked to verify the specific information. The one-step process may apply to BENDEX and SDX data obtained from SSA. Two exceptions to these suggested procedures are: (1) if there is a reason to believe that data generated as a result of a particular SDX or BENDEX match are questionable; and (2) if BEERS employment data are involved, because these data are not always current.

When the computer match data are supplied by a Federal agency which is not the primary or originating source of the income, asset, or other eligibility related information (e.g., unearned income data from the IRS or wage data from SSA), a two-step process is recommended. For example, contact either the individual or the actual third party source and verify the accuracy of the information prior to the mailing of the 10-day timely and adequate notice.

42 CFR 431.210 and the guidance provided in Kelly v. Goldberg are adequate to address whether a one-step process is used. In defining what constitutes "adequate notice" the court said, ". . . these principles require that a recipient have timely and adequate notice detailing the reasons for a proposed termination, and an effective opportunity to defend . . ." This makes it clear that in order for a notice to be adequate as required by 42 CFR 431.210,

it must inform the individual of the action to be taken, the basis for that action, and the avenues to appeal the decision if he/she does not believe the basis of the action to be valid. To fulfill these requirements, you must have exact current information on which to determine the effect on the individual's eligibility and/or benefits. These requirements direct the need for verification with a third party other than the recipient and the process and time periods in which to effect that verification. The type of verification process is left to the discretion of the States based on the circumstances of the case and the individual's rights guaranteed under Kelly v. Goldberg.

15804. TARGETING THE USE OF INCOME AND ELIGIBILITY VERIFICATION SYSTEM (IEVS) DATA

15804.1 Background--Section 9101 of OBRA 1986 amended §1137(a)(4)(C) of the Act to clarify that IEVS data are to be targeted (selectively applied) to those uses which are likely to be most productive. Targeting is intended to increase the efficiency with which IEVS data are used to identify and prevent ineligibility and incorrect benefit payments. To accomplish this objective, you have the flexibility to target the use of the data produced by IEVS in ways which you find most cost-effective and beneficial. Targeting is limited to recipients only. Follow up on all information received on applicants.

If you intend to exclude information items from followup (target), submit a followup plan which addresses each data source. Base justifications on the general experience of the program in following up on specific categories of information.

Targeting does not relieve you of responsibility for determinations of erroneous payments or liability for erroneous payments. Targeting does not apply to activities for establishing third party liability (TPL) benefit amounts. The law requires that all reasonable measures be taken to ascertain the legal liability of third parties to pay for care and services provided to Medicaid recipients.

15804.2 Targeting Approaches--Because of differences in the usefulness of data, you may develop targeting methods for each data source. For example, it may be more productive to look at a high percentage of State Wage Information Collection Agency (SWICA) data and a small percentage of SSA wage data because the wage data for SSA and SWICA are frequently duplicative. Following this approach allows maximum flexibility to develop a cost-effective overall strategy.

Targeting may be based on the use of thresholds or limits; e.g., the annual IRS match, which has data covering a calendar year and is not available until approximately 9 months after that year. Because there may be a large number of matches to process, you may want to target only the relatively larger dollar value matches where a greater likelihood exists of eligibility or payment amounts being affected.

In other situations, you may determine targeting data from certain data sources are not desirable. For example, unemployment insurance benefit (UIB) data are relatively current when received and cover discrete and limited time periods (weeks). The data on most discrepant UIB information items have a significant impact on eligibility. Hence, acting on all UIB data items for recipients may be desirable.

Even though you decide not to target information items, you may continue to exclude from followup wage/unemployment data from IRS and SSA that duplicate

data from another source that were already followed up. You may exclude duplicative information items from IRS regarding unemployment compensation and from SSA regarding earnings without written justification if these items were previously followed up with other sources. Advise the RO that you intend to exclude these duplicative items.

15804.3 Examples of Targeting Criteria.--These examples of targeting criteria, which may be adapted to your particular situation(s), suggest various approaches to consider in developing a targeting plan.

1. Use of Dollar Thresholds for Earned and Unearned Income.--Thresholds may be set based on an analysis of whether designated amounts of income cause an adverse action. A dollar threshold for individuals may be applied before following up, based on the premise that anything less than this amount does not cause a loss of eligibility, a change in beneficiary liability, or loss of coverage for certain services. However, in developing thresholds, consider the effect of cumulative amounts from all data sources that may impact eligibility or payment.

2. Use of Characteristics and Classes of Recipients.--Using characteristics such as age, health status, and place of residence, could target those individuals most likely to have the ability to perform work over the threshold limit. You may choose to target only those individuals 65 years of age or younger who are not living in an institutional setting at the time of redetermination, if you can demonstrate this is a cost-effective approach. There are also certain groups, such as disabled adult children born with severe handicaps who would not likely have wage earnings and could be excluded by targeting.

3. Use of Demographic or Work Related Characteristics.--You may decide not to follow up on the wage data of certain individuals whose work characteristics indicate that extra efforts are not likely to yield information that would affect eligibility or the medical assistance payment amount. For example, this criteria may cover classes of workers in a given area who are unlikely to have assets that would affect eligibility.

4. Considering the Age, Accuracy or Reliability of the Data.--You may decide to prioritize and target information for followup considering the age, accuracy and reliability of the available data. However, you are required to conduct all matches mandated by §1137 of the Act.

15804.4 State Followup Plan.--IEVS regulations require application for approval of information item followup plans. The Secretary is authorized by 42 CFR 435.953(b) to approve plans submitted by State agencies that wish to exclude categories of information items from followup. This authority to approve or disapprove categories of information to be excluded has been redelegated to HCFA Regional Administrators (RAs).

A. Plan Submittal.--Describe in the followup plan by data source the categories of information items to be excluded from followup. For each category, provide a reasonable justification that followup is not cost-effective. A formal cost-benefit analysis is not required. Also, justification is not required for items of unemployment compensation information from IRS or earnings information from SSA that duplicate items received from another source. If you have implemented targeting or wish to exclude categories of information items from followup, submit followup plans within 90 days of the effective date of this instruction. If you are not prepared to submit a targeting plan or do not plan to target now, advise the RO of this decision in writing.

B. RO Actions.--The RO will approve within 60 days of submission of the plan all categories of followup for which a reasonable justification has been provided. Notification of which categories have not been approved and the reason for the disapproval will also be provided within that timeframe.

Follow up on all information items for categories which have not been approved. New followup plans, revised categories of a current followup plan, or additional cost-effectiveness justification may be submitted at any time. Any deviation from an approved followup plan or failure to follow up on all items in categories not approved by the RO will constitute an act of noncompliance.

15805. ALTERNATE SOURCES OF DATA

IEVS regulations allow for approval to use alternative sources of data. The Secretary is authorized by 42 CFR 435.948(e) to approve State applications to request and use income information from a source(s) alternative to those listed in 42 CFR 435.948(a) to verify Medicaid eligibility and correct benefit payments. The authority to approve or disapprove the use of alternative data sources was re delegated to HCFA RAs effective July 9, 1986.

A. Application Approval.--For approval, submit an application to the RA demonstrating that the alternative source is as timely, complete, and useful for verifying eligibility and benefit amounts as the required sources.

Provide documentation in the application which compares the use of the proposed alternative data source to the required data source. Show in these comparisons why the alternative source is as adequate as, or superior to, the required source with respect to:

1. Timeliness.--Available within the same timeframe as the required source, or more frequently;
2. Completeness.--Contains the same information or additional information of the same data type; and
3. Usefulness.--Has the potential for resulting in as many or more case actions, e.g., recipient terminations, applicant denials, or fraud referrals, at less cost to the State.

In the application, explain the method used to test the use of the alternative source, with test results. At the end of 1 year submit to the RO an evaluation comparing the alternative source to the required source.

Partial approval may be received for those aspects of the application (alternate source(s)) which are approvable.

To the extent that applications or portions of applications are not approved, continue to meet the requirements of 42 CFR 435.948(a).

NOTE: An application proposing the alternate source(s) under one Federal agency's regulation (HCFA) is not automatically considered an application under another Federal agency's regulation (Food and Nutrition Service (FNS) or Family Support Administration (FSA)). Submit a separate application for consideration under each Federal agency's regulation.

B. Application Review.--The HCFA RO reviews the application for using an alternate source of income data and consults with its counterparts in the FNS and FSA, and, when necessary, the Department of Labor.

Consultation with the Employment and Training Administration (ETA) of the Department of Labor may be necessary when an application for alternate source(s) includes source(s) required or proposed which is under its jurisdiction (i.e., State wage information maintained by the SWICA and unemployment compensation information maintained by the agency administering State unemployment compensation laws).

Review of the agency's application for approval is limited to proposed alternate sources and to those sources meeting the requirements for timeliness, completeness, and usefulness. You will receive notification of the RA's decision within 30 days of receipt of your application. The RO may request additional information if necessary, and a determination will be made within 30 days of receipt of the additional information.

15806. STATE PLAN REQUIREMENT

Provide in the State plan that you have implemented an IEVS that meets the requirements of regulations at 42 CFR 435.940 through 435.960. The State plan preprint for IEVS designated 4.32 is included in Program Memorandum (PM) for Medicaid State Agencies, Transmittal No. 87-14, dated October 1987. File Attachment 4.32-A (PM-86-9, dated May 1986) to request additional income, resource, or eligibility information from other agencies in the State or other States administering programs as provided in 42 CFR 435.948(a)(6). Describe the information being requested and the State and/or agency from which it is being requested. Provide in the State plan safeguarding procedures that protect the confidentiality of information concerning applicants and recipients as required in 42 CFR 431. The State plan preprint for safeguarding designated 4.3 (page 34) is included in PM 87-9, dated August 1987. Ensure that the text page 34 is included in your State plan. Submit the appropriate pages (State or territory) of the State plan preprint to the RO for review and approval.

15807. SAFEGUARD REQUIREMENTS FOR IRS UNEARNED INCOME DATA

The law requires SAs to exchange information with each other and to obtain and use unearned income data from the IRS, other income and wage data from the SSA, and data from State Wage and Unemployment Insurance Benefit files, and to ensure that appropriate privacy and procedural safeguards are applied in the use of the information. The SA must provide and maintain assurances that the information is used only for the purpose of determining eligibility and the amount of benefits to be granted for the program it is administering. IRS unearned income data are required to be obtained and used as prescribed by the Commissioner of IRS. IRS prescribes its technical and procedural requirements for obtaining and using unearned income data from IRS files in Internal Revenue Procedure 85-21 (Rev. Pro. 85-21). IRS Publication 1075 (IRS Pub. 1075), Tax Information Security Guidelines for Federal, State, and Local Agencies, provides detailed procedures for safeguarding the information and for responding to IRS safeguard recordkeeping and reporting requirements.

IRS safeguard guidelines pertain not only to those agencies which receive Federal tax information directly from IRS, but also to those agencies or agents which receive it from secondary sources such as the SSA and Federal lending agencies. Program agencies receiving IRS information, directly or indirectly, are expected to follow IRS guidelines to prevent unauthorized uses of the information and to protect the confidentiality of that information. Conformance to IRS safeguard requirements detailed in IRS Pub. 1075 meet the safeguard requirements of §6103(p)(4) of the Internal Revenue Code and the Federal regulations described in 42 CFR 431.300ff. pertaining to safeguarding information on applicants and recipients.

A. SA Responsibilities for Safeguarding IRS Data.--In providing the required safeguards that restrict unauthorized use or disclosure of IRS unearned income data, the program agency or a single CSA is responsible for the following:

- o Ensuring that appropriate safeguards are employed in the use of the data,
- o Providing physical security for the data,
- o Coordinating and overseeing the dissemination of the data,
- o Monitoring of safeguard activities, and
- o Responding to IRS safeguard reporting requirements.

If the CSA approach is not determined to be satisfactory or workable, each program agency (AFDC, Medicaid, Food Stamp, Adult Assistance) may respond individually to IRS safeguard requirements. Note that once an option is taken in dealing with IRS, use the same approach to conform with the IRS safeguard requirements (e.g., coordinated or individual program).

1. Safeguards Employed Using Data

o Use IRS data only for valid administrative needs in verifying the income and eligibility of applicants and recipients. (See §XVII of IRS Pub. 1075.)

o Ensure that IRS data are made available only to personnel authorized to use the data. Restrict access to tax return information to designated personnel. (See §X of IRS Pub. 1075.)

o Provide security procedures and instructions, orientations, and training to all agency employees to ensure their awareness and compliance for using IRS information. (See §VIII of IRS Pub. 1075.)

2. Providing Data Physical Security.--Assure that IRS tax return information is adequately stored and processed so that it is protected against unauthorized disclosure for other purposes. Sections XII, XIII, XIV, XV, and XVII of IRS Pub. 1075 provide detailed instructions on processing controls, providing computer system/storage security, and protection methods.

3. Coordinating/Overseeing Data Dissemination.--Since more than one program agency within the State (AFDC, Medicaid, Food Stamp, Adult Assistance) is required to use IRS information, centralize safeguard responsibility, and establish and maintain uniform IRS safeguard standards.

Coordinate and oversee the dissemination of IRS data throughout your organizational structure and whenever a contractor is used to process Federal return information. Any statistical reports produced by you must not identify a particular individual directly or indirectly. Properly dispose of the IRS tax return information upon completion of its use.

SA shall refer to §§III, VI, XI, XII, and XVIII of IRS Pub. 1075 for detailed requirements and instructions on this subject.

4. State Monitoring of Safeguard Activities.--As a condition for receiving IRS unearned income data, assure a safeguard program that meets the specifications, procedures, and conditions of IRS safeguard requirements is in place. (See guidelines in IRS Pub. 1075.) Take corrective action where specific weaknesses in safeguard initiatives are identified by you, Federal oversight agencies, or IRS.

You are responsible for monitoring the safeguards, including onsite inspections of the local agencies which received return information from you. (See §V of IRS Pub. 1075.)

Conduct internal inspections (see §IV of IRS Pub 1075) to ensure the safeguard programs are in compliance with IRS requirements and to validate the information provided in the Safeguard Procedure and Safeguard Activity Reports.

5. Safeguard Activity Report.--An annual safeguard activity report shall be submitted to the ROs of the Federal agencies which have oversight responsibility. This report shall update the initial safeguard procedure report (details the security of and individuals responsible for requesting and accessing IRS information, the flow of the information through the SA, and information describing the need for, use of, and disposal of IRS data) to ensure that current and reliable information is provided on the programs' safeguard activities.

Section VII of IRS Pub. 1075 provides the information requirements for this report. Attached is a recommended IRS approved format for your use to maintain uniformity and ease of submittal. (See Exhibit 1 of this chapter.) Annual Safeguard Activity Reports shall be submitted by September 30 of each year.

Annual activity reports are reviewed and analyzed by Federal oversight agencies (e.g., HCFA, FSA, FNS), and the results are used for monitoring ongoing safeguard activities. Problems or concerns regarding the reports will be discussed with SAs, as necessary, prior to reporting to IRS on the operation of safeguard procedures under IEVS.

B. Federal Monitoring Responsibilities.--Federal agencies responsible for State program oversight are charged with ensuring that you comply with IRS-specific requirements for safeguarding the unearned income data disclosed by IRS. Safeguard monitoring responsibilities for HCFA have been delegated to HCFA ROs. These responsibilities include:

- o Monitoring the ongoing safeguard activities employed by SAs by reviewing and analyzing safeguard activity reports,
- o Providing IRS with monitoring and audit reports on current State practices, and
- o Conducting onsite reviews of each SA's safeguards at least once every 5 years.

C. IRS Audits of Federal/State Safeguard Activities.--IRS has the authority to conduct its own safeguard reviews at the Federal, State, and local levels either:

- o When the IRS believes unearned income information is not being properly safeguarded or protected, or
- o To insure Federal oversight agencies are properly monitoring safeguards employed by State programs which requested unearned income information.

You are encouraged to seek further guidance, if necessary, from the ROs of Federal agencies maintaining oversight. Questions concerning IRS requirements may be directed through Federal agency channels or directly to IRS district offices.

SAFEGUARD ACTIVITY REPORT

STATE _____

- A. Reporting/Participating Programs (Circle one or all. A report must be submitted for all programs, either as one comprehensive report or separate reports for each program.)
 - 1. Aid to Families with Dependent Children program under part A of title IV of the Social Security Act.
 - 2. Medicaid program under title XIX of the Social Security Act.
 - 3. Food Stamp program under the Food Stamp Act of 1977.
 - 4. For the territories: Any Adult Assistance program under a plan approved under title I, X, XIV, or XVI of the Social Security Act.

- B. Required Report Information (Refer to section VII of IRS Pub. 1075.)
 - 1. Describe in detail significant changes in safeguard procedures or authorized access to IRS unearned income information since the time the safeguard procedures report was submitted. Describe any changes or enhancements to physical and computer security measures.
 - 2. Describe internal inspection initiatives and results. (See item VII.2 of IRS Pub. 1075.)
 - 3. Describe the disposal process of the IRS unearned income information. Identify the material destroyed during the year and the date and manner of destruction.
 - 4. Describe any information disclosures which have taken place since the Safeguard Procedure Report was submitted. (Include the recipients.)
 - 5. Are the statements and safeguard procedures described in your initial Safeguard Procedure Report submitted on _____ still in effect?
 YES _____ NO _____
 Describe any differences/changes in that report that you have not discussed in items 1-4.

- C. This Safeguard Activity Report serves as the Agency's certification that it is protecting return information in accordance with IRC 6103(p)(4).

Signature and Title of Certifying Official

Date

15808. RECORDKEEPING AND DATA MANAGEMENT

To ensure the proper and efficient operation of the IEVS, SAs administering the Medicaid program are required by Federal regulations to track IEVS match data from receipt through final disposition and maintain records of results. Assessing performance and instilling accountability for IEVS matching and followup actions is critical to achieving the effectiveness envisioned in applying computer matching techniques. Therefore, develop data management functions and activities necessary to control computer matching and assess its impact.

Specifically, 42 CFR 431.17 mandates the maintenance of records and 42 CFR 435.952(f) requires you to use appropriate procedures to monitor the timely use of match data. To meet these regulatory requirements you must have in place a system, preferably automated, that captures performance and tracking data. It must track the status of matches until you initiate adverse case action, or make a determination that the information does not affect the case. The system must include the following general control functions.

A. Systematic Recordkeeping - Case File Documentation.--Maintain documentation in the case record (either electronically or in hard copy) for an applicant or recipient when:

- o A match is positive (i.e., hit), and
- o The positive match meets your targeting criteria.

NOTE: In accordance with 42 CFR 435.945(h) retain records of all information items received, including those not followed up. Make the records available for QC review purposes.

The following data elements constitute basic IEVS documentation and are considered minimal to perform oversight and analysis of the IEVS function.

- o Number of hits by match source and the date on which you receive match information,
- o Date of disposition (e.g., either the date you determine that the information does not affect the case or the date that you initiate adverse action.)

NOTE: The difference between the receipt date of match information and the disposition date must conform to 42 CFR 435.952(c) and (d) which is 45 days except for the match items where third party verification is not received within 45 days. The number of dispositions delayed beyond 45 days from receipt of an item of information must not exceed 20 percent of the number of items for which verification was requested. Develop procedures to monitor the timeliness of match item disposition.

- o Type of case action (e.g., denial, termination, liability adjustment, fraud referral, restitution) or annotation of no case action necessary.

B. Compilation of Operational Performance Data to Track Followup Progress and Timeliness.--Monitor and track the status of match results to assure compliance with the timeliness standards discussed below (as set forth in 42 CFR, part 435). Except as provided under 42 CFR 435.953 which permits targeting of selective match items to the most productive followup investigations, review and compare against the casefile all information received under IEVS to determine whether it affects the applicant's or recipient's eligibility or amount of medical assistance payment. Initiate a notice of case action to advise the applicant or recipient of any adverse action the agency intends to take or make an entry in the casefile that no further action is necessary.

If requested third party verification is not received within the 45-day period after receipt of information, determine whether the information affects eligibility or the correct amount of medical assistance payment after the 45-day period. However, make any delayed determinations:

- o Promptly, as required by 42 CFR 435.916, if the verification is received before the next redetermination; or

- o In conjunction with the next redetermination if no verification is received before that redetermination.

The number of determinations delayed beyond 45 days from receipt of an item of information must not exceed 20 percent of the number of items of information for which verification was requested.

To ensure that timeliness standards and allowable delay exceptions are met, develop and maintain a tracking process, preferably automated, to achieve optimum cost efficiency. Design the system to track the status of match data until adverse case action has been initiated, or a determination is made that the information does not affect the case. The system's design shall also include elements for producing data to assess the effectiveness of IEVS activities or functions and whether the SA has complied with IEVS regulations.

C. Compilation of Statistical Data.--Statistical data must be available in a centralized location and available upon request for Federal and State audit purposes. For most data matching operations, actual data must be available from control logs and case record documentation; however, it is recognized that for "on-line" match and verification systems, actual counts may be impracticable. In the case of the latter, statistically reliable estimates are acceptable.

For each match source, be able to compile upon request:

- o The date of tape match submittal (e.g., from control log);
- o The date of tape match receipt;

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- o The total number of hits where no actions were necessary due to targeting information or knowledge that eligibility was not affect
- o The total number each of denials, terminations, liability adjustments, and fraud referrals; and
- o The total number of hits followed up to disposition within the standard timeframe.

D. Analysis of Cost-Effectiveness of Targeting Criteria.--You are afforded discretion to target efforts in ways that you determine are most cost-beneficial. To ensure that cases which are most likely to be productive are followed up, you may target match hits and prioritize follow up actions. If you do implement targeting in accordance with the legislation contained in the Omnibus Budget Reconciliation Act of 1986 (P. L. 99-509) and regulations published in the Federal Register on March 2, 1989, volume 54, number 40, submit to HCFA ROs a targeting plan to justify the targeting methods for each match data source. Specify in the plan the categories to be excluded and provide a description of the targeting criteria by category. For each category, provide a reasonable justification explaining why the followup would not be cost-effective. A formal cost-benefit analysis is not required. (See §15804.)

However, the Computer Matching and Privacy Protection Act of 1988, P.L. 100-503, does require a cost-benefit analysis to be included in the request for approval of matching agreements entered into with Federal agencies conducting computer matches.

E. Reporting Requirements.--Report as requested by HCFA the minimal data reflected in §15808 on a 12-month cumulative basis.